

Appln. No. 10/715,803
Docket No. GP-303124/GM2-0075

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REMARKS / ARGUMENTS

Applicant thanks the Examiner for reconsideration of the Richards reference, and withdrawal of the rejections associated therewith.

Status of Claims

Claims 1-4, 7-12 and 23-27 are pending in the application, and stand rejected. Applicant has amended Claims 1, 24 and 26, and has added new Claim 28, leaving Claims 1-4, 7-12 and 23-28 for consideration upon entry of the present Amendment.

Applicant respectfully submits that the rejections under 35 U.S.C. §102(b), and 35 U.S.C. §103(a), have been traversed, that no new matter has been entered, and that the application is in condition for allowance.

Rejections Under 35 U.S.C. §102(b)

Claims 1-4, 8-9, 12 and 23-27 stand rejected under 35 U.S.C. §102(b) as being anticipated by Isaacson (U.S. Patent No. 3,788,626, hereinafter Isaacson).

Applicant traverses this rejection for the following reasons.

Applicant respectfully submits that "[a] claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, *in a single prior art reference.*" *Verdegaal Bros. V. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987) (emphasis added). Moreover, "[t]he identical invention must be shown in as complete detail as is contained in the *** claim." *Richardson v. Suzuki Motor Co.*, 868 F.2d 1226, 1236, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989). Furthermore, the single source must disclose all of the claimed elements "arranged as in the claim." *Structural Rubber Prods. Co. v. Park Rubber Co.*, 749 F.2d 707, 716, 223 U.S.P.Q. 1264, 1271 (Fed. Cir. 1984). Missing elements may not be supplied by the knowledge of one skilled in the art or the disclosure of another reference. *Titanium Metals Corp. v. Banner*, 778 F.2d 775, 780, 227 U.S.P.Q. 773, 777 (Fed. Cir. 1985).

Applicant has amended independent Claims 1, 24 and 26 to now recite, inter alia,

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"... the load initiating element being disposed to resist a force exerted by the compression member acting on the spring in a compressive manner in the second direction."

No new matter has been added by these amendments as antecedent support may be found in the specification as originally filed, such as at Paragraphs [0027] and [0030], and at Figures 1 and 2, for example.

At Paragraph [0030], Applicant describes motion of the compression member 18 to the right (first direction) (as viewed from the perspective of the various figures presented in the application as filed) resulting in the load initiating element 14 and spring 22 being slidable, and motion of the compression member 18 to the left (second direction) resulting in the spring 22 and load initiating element 14 being lockable.

At Paragraph [0027], Applicant describes motion of the compression member 18 to the left (second direction) resulting in the spring 22 being compressed between the load initiating element 14 and the compression member 18.

Thus, from at least Paragraphs [0027] and [0030], and the accompanying figures, Applicant discloses the load initiating element 14 being disposed to resist (via frictional loading against housing 10) a force exerted by the compression member 18 acting on the spring 22 in a compressive manner in the second direction (toward the left).

Dependent claims inherit all of the limitations of the respective parent claim.

In comparing Isaacson with the claimed invention as amended, Applicant submits that Isaacson is absent at least the limitation of "... the load initiating element being disposed to resist a force exerted by the compression member acting on the spring in a compressive manner in the second direction."

More specifically, if Applicant were to agree that Isaacson element 20, 24 is comparable to the claimed compression member, that Isaacson element 46 is comparable to the claimed load initiating element, that Isaacson element 10 is comparable to the claimed housing, and that Isaacson element 37 is comparable to the claimed spring, then Applicant submits that the claimed second direction is to the right in Isaacson (as an aside, the direction of action in and of itself is not the point of distinction, but is used here

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merely to identify relative motion of parts) when viewed from the perspective of Isaacson Figure 2, since other claim limitations call for the load initiating element, spring, and compression member to be lockable within the housing in the second axial direction, which occurs when Isaacson compression member 20, 24 moves to the right to compress and lock spring 37 against housing 10. Accordingly, and during movement of Isaacson compression member 20, 24 to the right, Isaacson load initiating element 46 would also be driven to the right, and would slide relative to Isaacson housing 10. That is, Isaacson load initiating element 46 is not disposed to resist a force exerted by Isaacson compression member 20, 24 acting on Isaacson spring 37 in a compressive manner in the second direction (to the right).

In view of the foregoing, Applicant submits that Isaacson does not disclose all of the claimed elements arranged as in the claim, and absent anticipatory disclosure in Isaacson of each and every element of the claimed invention arranged as in the claim, Isaacson cannot be anticipatory.

In view of the amendment and foregoing remarks, Applicant submits that Isaacson does not disclose each and every element of the claimed invention arranged as claimed and therefore cannot be anticipatory. Accordingly, Applicant respectfully submits that the Examiner's rejection under 35 U.S.C. §102(b) has been traversed, and requests that the Examiner reconsider and withdraw of this rejection.

Rejections Under 35 U.S.C. §103(a)

Claims 10-11 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Isaacson.

Claim 7 stands rejected under 35 U.S.C. §103(a) as being unpatentable over Isaacson in view of Brock et al. (U.S. Publication No. 2003/0000793).

Applicant traverses these rejections for the following reasons.

Applicant respectfully submits that the obviousness rejection based on the References is improper as the References fail to teach or suggest each and every element of the instant invention in such a manner as to perform as the claimed invention performs.

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For an obviousness rejection to be proper, the Examiner must meet the burden of establishing a *prima facie* case of obviousness. *In re Fine*, 5 U.S.P.Q.2d 1596, 1598 (Fed. Cir. 1988). The Examiner must meet the burden of establishing that all elements of the invention are taught or suggested in the prior art. MPEP §2143.03.

Claims 7 and 10-11 are dependent claims. In view of the amendments set forth and discussed above, Applicant submits that Brock fails to cure the aforementioned deficiencies of Isaacson, and that for at least this reason Claims 7 and 10-11 are allowable as being dependent upon and allowable parent claim.

In view of the foregoing, Applicant submits that the References fail to teach or suggest each and every element of the claimed invention and are therefore wholly inadequate in their teaching of the claimed invention as a whole, fail to motivate one skilled in the art to do what the patent Applicant has done, fail to offer any reasonable expectation of success in combining the References to perform as the claimed invention performs, and discloses a substantially different invention from the claimed invention, and therefore cannot properly be used to establish a *prima facie* case of obviousness. Accordingly, Applicant respectfully requests reconsideration and withdrawal of all rejections under 35 U.S.C. §103(a), which Applicant considers to be traversed.

In light of the forgoing, Applicant respectfully submits that the Examiner's rejections under 35 U.S.C. §102(b) and 35 U.S.C. §103(a) have been traversed, and respectfully requests that the Examiner reconsider and withdraw these rejections.

Regarding New Claim 28

Applicant has added new Claim 28 to capture previously disclosed but unclaimed subject matter. No new matter has been added as antecedent support may be found in the application as originally filed, such as at Paragraphs [0027] and [0030], and at Figures 1 and 2, for example. In view of the dependency of Claim 28 on Claim 1, Applicant submits that for at least this reason Claim 28 is allowable, and respectfully request notice thereof.

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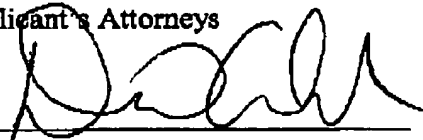
Additionally, Applicant submits that the prior art of reference fails to disclose, teach or suggest the spring being disposed to receive a compressive load from the compression member, and to transfer at least a portion of the compressive load to the load initiating element. For example, Applicant submits that Isaacson discloses the spring being disposed to receive a compressive load from the compression member, but does disclose the spring being disposed to transfer at least a portion of the compressive load to the load initiating element as the Isaacson load initiating element is in force communication with the compression member and the housing, and not the spring.

The Commissioner is hereby authorized to charge any additional fees that may be required for this amendment, or credit any overpayment, to Deposit Account No. 06-1130. In the event that an extension of time is required, or may be required in addition to that requested in a petition for extension of time, the Commissioner is requested to grant a petition for that extension of time that is required to make this response timely and is hereby authorized to charge any fee for such an extension of time or credit any overpayment for an extension of time to the above-identified Deposit Account.

Respectfully submitted,

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